



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 1, 1996

Mr. Alexis A. Walter, III
City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR96-0473

Dear Mr. Walter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38871.

The City of Bryan (the "city") received an open records request for the following information:

Copies of all loan requirements, applications, financial statements and other information, guarantees, notes, security documents, personal references, corporate records or documents, and all other information used by David Lee Satory, Mary Ann Brinker Satory, James D. Lund, Elson Muniz, and/or Gulf States Entertainment, Inc., to apply for and/or secure an economic development loan from the City of Bryan or any other lender which you represent.

You have submitted to this office as responsive to the request 16 documents that you contend constitute "personal financial information" about the above referenced individuals and thus come under the protection of common-law privacy as incorporated into section 552.101 of the Government Code.

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to

the public. *Id.* at 683-85. In Open Records Decision No. 373 (1983), this office addressed the availability of personal financial information submitted to a city by an applicant for a housing rehabilitation grant. In that decision, this office concluded:

all financial information relating to an individual -- including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history -- ordinarily satisfies the first requirement of common law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.

Open Records Decision No. 373 at 3. Whether the public has a legitimate interest in this type of information, however, must be determined on a case-by-case basis. *Id.* at 4; *see also* Open Records Decision Nos. 600 (1992); 545 (1990).

Many of the documents submitted to us for review include information about the listed individuals' financial and credit history. This information reveals the individuals' sources of income, salary, credit history, and other personal financial information. We conclude that this information is highly intimate or embarrassing. Moreover, the background information you have provided this office does not indicate any special circumstances that would make these individuals' personal financial information a matter of legitimate public concern. Accordingly, we have marked the documents that must be withheld from required public disclosure under section 552.101 of the Government Code.

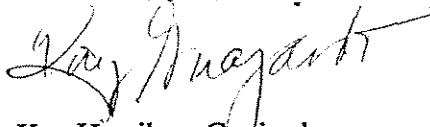
The remaining documents, however, pertain to the assets and other business dealings of a corporation, as opposed to any particular individual. Corporations do not have a right to privacy. *See* Open Records Decision No. 192 (1978). The right of privacy is intended to protect the feelings and sensibilities of human beings; it does not protect information about private corporations. Open Records Decision No. 624 (1994) and authorities cited therein. Thus, although the remaining information submitted to this office constitutes the background financial information of the corporation that sought an economic development loan from the city, the corporation has no right of privacy in it. This information therefore may not be withheld pursuant to section 552.101 of the Government Code.

On the other hand, recognizing that the subject corporation may have had a proprietary interest in withholding this information from the public, this office notified representatives of the corporation about the open records request and invited them to submit arguments as to whether any of the information should be deemed protected from required public disclosure pursuant to other exceptions under the act, particularly section 52.110 of the Government Code, which protects "[a] trade secret or commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." Although the corporation's attorney responded to our notice, he did

not provide this office with any arguments for withholding the financial information other than with regard to the named individuals' *personal* privacy interests. We therefore conclude that the corporation has waived its proprietary interests in withholding its records from the public. Accordingly, the city must release the corporate records to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hamilton Guajardo
Assistant Attorney General
Open Records Division

KHG/RWP/ch

Ref.: ID# 38871

Enclosures: Marked documents

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(w/o enclosures)